

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8710 of 2021**

Arising Out of PS. Case No.-94 Year-2020 Thana- NAANPUR District- Sitamarhi

1. NAGENDRA THAKUR Son of Aaudar Thakur @ Fauijdar Thakur Resident of Village- Chhoti Souriya, P.S.- Nanpur, District- Sitamarhi.
2. Faudar Thakur @ Fauijdar Thakur Son of Jhameli Thakur Resident of Village- Chhoti Souriya, P.S.- Nanpur, District- Sitamarhi.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Y.C Verma, Senior Advocate. Mr. Satish Kr. Sinha, Advocate.
For the Opposite Party/s	:	Mr. Sanjay Kumar Sharma, APP
For the Informant	:	Mr. Devendra Kumar, Advocate.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 30-04-2021 Learned Counsel for the Petitioners undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned senior counsel for the petitioners, learned counsel for the informant and Mr. Sanjay Kumar Sharma, learned APP for the State.

The petitioners in the present case are seeking regular bail in connection with Nanpur P.S. Case No. 94 of 2020 registered for the offences punishable under Sections 302/34 of the Indian Penal Code.

As per the prosecution story, these two petitioners and the co-accused who is wife of petitioner No. 1 came lashed



with farsa in front of the house of the informant where his mother was sitting. According to the informant who claims himself to be an eye witness all the three accused assaulted his mother on her head by a farsa, whereafter her mother fell down and became unconscious. She was brought to hospital where she was declared dead.

Learned senior counsel for the petitioners submits that there is a counter version of the story and an another FIR which has been registered on the same day by the petitioner No.1 which is Annexure '2' to the present application. According to this FIR, the prosecution side of the present case were the aggressor, they had come at the door of the petitioner No. 1 lashed with arms and weapons, they started abusing the informant (petitioner No.1) saying that why he had made allegation against him of committing indecent act with his daughter. It is alleged by the informant (petitioner No.1) in his FIR that when he asked the accused Ravi Kumar not to abuse him he assaulted the petitioner No. 1 by a farsa on his head as a result whereof the petitioner No. 1 sustained injury and started bleeding. The other family members of the petitioner No. 1 who came to stop them were also assaulted.

Learned Senior counsel for the petitioners submits



that in the First Information Report there are general allegations against all these three accused named in the FIR that they had assaulted the mother of the informant by a farsa on her head but the post mortem report shows only one lacerated wound on the scalp of the deceased.

It is further pointed out that petitioner No. 1 had sustained injury on his scalp and his injury report which is available on record shows that (i) lacerated wound on vertex of skull of 8cm x 1cm x scalp deep and (ii) abrasion on right side forearm of 4cm x 2cm.

Learned senior counsel for the petitioners further submits that doctors have opined in the autopsy report that the one injury caused on the scalp of the mother of the informant was caused by hard and blunt object. It is further informed that co-accused Lila Devi is wife of the petitioner No. 1 and against whom also there is an identical allegation has been granted bail by a learned coordinate Bench of this Court vide order dated 30.01.2021 in Criminal Misc. No. 36599 of 2020. Both these petitioners are in jail for more than a year, investigation against them is complete and in the nature of the allegations, the fact that the dispute seems to have taken place on some petty issues and both sides have suffered injury including petitioner No. 1,



the petitioners may be enlarged on bail.

On the other hand, learned counsel for the informant has opposed the prayer for regular bail of the petitioners. Learned counsel for the informant submits that these petitioners had participated in the alleged occurrence and though there is only one injury on the scalp of the deceased, it has been attributed to the joint assault caused by all the three accused. On the specific query made by this Court as to how the case of these two petitioners have been distinguished from that of the co-accused who has already been granted bail by learned coordinate Bench of this Court, learned counsel for the informant could not offer any satisfactory explanation, rather it is admitted that only one injury has been found on the scalp of the deceased.

Learned APP for the State has opposed the prayer for regular bail of the petitioners, however, after considering the facts and circumstances of the case, the fact that in the FIR the allegations have been made against three accused persons saying that all of them assaulted the mother of the informant by farsa but the injury found on the head of the deceased is only one injury that too said to have been caused by hard and blunt object, the co-accused similarly situated have been granted bail



by learned coordinate Bench of this Court, there is counter case as well and the petitioner No. 1 has also suffered injury on his scalp, the petitioners have remained in jail for over one year, investigation against them is complete but the trial is not likely to be concluded in near future, there being no submission on behalf of the State that release of the petitioners at this stage is likely to result in tampering with the evidence or interfering with the course of trial, this Court directs release of the petitioners above named on bail on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned sub Divisional Judicial Magistrate, Pupri at Sitamarhi in connection with Nanpur P.S. Case No. 94 of 2020, subject to the conditions as laid down under Section 437(3) Cr.P.C. as under:

(a) That such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) That such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which is suspected, and

(c) that such persons shall not directly or indirectly make and inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from



disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'

